

EXHIBIT 5

From: [Lustberg, Lawrence S](#)
To: [Orloff, Serena M \(CIV\)](#)
Cc: [Konkoly, Antonia \(CIV\)](#)
Subject: RE: Snowden
Date: Wednesday, April 29, 2020 2:08:21 PM
Attachments: [image001.jpg](#)

Serena – Sorry for the delay in responding. Bottom line is that you are correct in all respects: first, I agree that (as much as I enjoy talking to the two of you) consultation under Local Rule 37(E) would be futile. And second, you are correct that counsel will certainly not be opposing your motion to compel and I do not believe that Mr. Snowden will seek to do so pro se.

Of course, as always, let me know if you have any questions or if there is anything you would like to discuss. Thanks and sincerely hope you are well, safe and healthy.

All the best,

Larry

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From: Orloff, Serena M (CIV) <serena.m.schulz-orloff@usdoj.gov>
Sent: Monday, April 27, 2020 10:57 AM
To: Lustberg, Lawrence S <LLustberg@gibbonslaw.com>
Cc: Konkoly, Antonia (CIV) <Antonia.Konkoly@usdoj.gov>; Orloff, Serena M (CIV) <serena.m.schulz-orloff@usdoj.gov>
Subject: RE: Snowden

Larry,

Thank you for your email. We plan to move to compel responses to our discovery requests. Since Mr. Snowden has chosen to provide no responses, even as to requests that he did not object to (and against the advice of counsel), it appears that a consultation among counsel, as required by Local Rule 37(E), will not be fruitful. Do you agree? If so, would you let us know whether Mr. Snowden will oppose the motion? Otherwise, would you let us know some times in the next day or two in which you are free to have the discussion contemplated by Local Rule 37(E), and the areas that you think will be fruitful to discuss?

Thank you,
Serena

From: Lustberg, Lawrence S <LLustberg@gibbonslaw.com>
Sent: Wednesday, April 22, 2020 7:55 PM
To: Orloff, Serena M (CIV) <sorloff@CIV.USDOJ.GOV>
Cc: Konkoly, Antonia (CIV) <ankonkol@CIV.USDOJ.GOV>
Subject: RE: Snowden

Serena and Toni --

Sorry for the late hour.

I write to communicate that, contrary to the advice of his counsel, Mr. Snowden is declining to provide answers to the government's discovery requests at this time. He would note that some of the more critical requests, per our discussion of yesterday, especially those regarding his speeches (and which speeches arguably violate the NDAs, per your request of yesterday) require information that is not within Mr. Snowden's current knowledge or possession, though he suggests that they can certainly be gathered, over time, from the American Program Bureau, for example. Other of the discovery requests are covered by our objections.

Finally, Mr. Snowden wished me to convey to you that, notwithstanding the above, he remains willing to discuss a settlement of this matter – one that would spare the Government the time and expense of having to identify which of his paid speeches might have violated the terms of the court's summary judgment order. But to the extent that this turns on providing the discovery that is due today, he understands that such discussions may not continue.

Larry

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From: Orloff, Serena M (CIV) <serena.m.schulz-orloff@usdoj.gov>
Sent: Monday, April 20, 2020 3:14 PM
To: Lustberg, Lawrence S <LLustberg@gibbonslaw.com>
Cc: Konkoly, Antonia (CIV) <Antonia.Konkoly@usdoj.gov>
Subject: RE: Snowden

Great, thanks. How about 10:30 tomorrow morning? We can call you, if that works.

From: Lustberg, Lawrence S <LLustberg@gibbonslaw.com>

Sent: Monday, April 20, 2020 2:49 PM
To: Orloff, Serena M (CIV) <sorloff@CIV.USDOJ.GOV>
Cc: Konkoly, Antonia (CIV) <ankonkol@CIV.USDOJ.GOV>
Subject: RE: Snowden

Thanks, Serena, for the really nice email – your timing is great as I was just thinking of reaching out to you to see where you were on this, as we work on discovery. I am available any time tomorrow morning – would that work for you? Thanks so much.

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From: Orloff, Serena M (CIV) <serena.m.schulz-orloff@usdoj.gov>
Sent: Monday, April 20, 2020 11:29 AM
To: Lustberg, Lawrence S <LLustberg@gibbonslaw.com>
Cc: Konkoly, Antonia (CIV) <Antonia.Konkoly@usdoj.gov>
Subject: Snowden

Hi Larry,

I hope everything is still ok with your father. We've discussed your settlement proposal. Your proposed terms are not readily acceptable, but we think there would be value in further discussion to explore whether a settlement might be possible. Are there some good days/times this week to have that discussion?

Thank you,
Serena

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